

2023 Regular Session

HOUSE BILL NO. 562

BY REPRESENTATIVES SCHEXNAYDER, ADAMS, BAGLEY, BOYD, BRASS, BRYANT, CARPENTER, WILFORD CARTER, CORMIER, DAVIS, DUBUISSON, FISHER, FREEMAN, GAINES, GAROFALO, GLOVER, GREEN, HUGHES, JEFFERSON, JENKINS, TRAVIS JOHNSON, KNOX, LAFLEUR, LANDRY, MARCELLE, MARINO, NEWELL, ROBERT OWEN, PHELPS, PIERRE, SCHLEGEL, STAGNI, VILLIO, AND WILLARD

TAX CREDITS: Provides relative to the Motion Picture Production Tax Credit

1 AN ACT

2 To amend and reenact R.S. 47:6007(B)(11), (C)(1)(a)(iv) and (4)(f)(i)(bb) and (iii) and

3 (h)(iii)(bb), (D)(2)(c)(i) and (d)(i), (I), and (J)(1) and to enact R.S.

4 47:6007(C)(4)(f)(i)(dd) and (8) and (K), relative to the motion picture production tax

5 credit; to provide relative to Louisiana promotional graphics requirements for

6 productions; to provide relative to uses of the Louisiana Entertainment Development

7 Dedicated Fund Account; to provide relative to expenditure data collection; to

8 provide relative to transfers of the tax credit; to provide for eligibility for the tax

9 credit; to provide with respect to the Department of Economic Development program

10 issuance cap; to remove certain limitations with respect to the issuance cap; to extend

11 the sunset date of the tax credit; and to provide for related matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. R.S. 47:6007(B)(11), (C)(1)(a)(iv) and (4)(f)(i)(bb) and (iii) and

14 (h)(iii)(bb), (D)(2)(c)(i) and (d)(i), (I), and (J)(1) are hereby amended and reenacted and R.S.

15 47:6007(C)(4)(f)(i)(dd) and (8) and (K) are hereby enacted to read as follows:

16 §6007. Motion picture production tax credit

17 B. Definitions. For the purposes of this Section:

18 * * *

1 base investment dollars certified per project, or as otherwise provided in this
2 Paragraph.

3 (a) Project-based production tax credit. For applications for state-certified
4 productions on or after July 1, 2017:

5 * * *

6 (iv)(aa) For applications submitted on or after July 1, 2017, and prior to July
7 1, 2023, as ~~As~~ a condition of receiving tax credits pursuant to this Section,
8 state-certified productions shall be required to acknowledge the financial assistance
9 of the state of Louisiana, either through the inclusion of a Louisiana promotional
10 graphic, or an alternative marketing option, including a donation to a Louisiana
11 nonprofit film grant program as approved by the office.

12 (bb) For applications submitted on or after July 1, 2023, as a condition of
13 receiving tax credits pursuant to this Section, state-certified productions shall be
14 required to acknowledge the financial assistance of the state of Louisiana through the
15 inclusion of a Louisiana promotional graphic.

16 * * *

17 (4) Transferability of the credit. Except as provided for in Subparagraph (g)
18 of this Paragraph, motion picture tax credits not previously claimed by any taxpayer
19 against its income tax may be transferred or sold to another Louisiana taxpayer or
20 to the Department of Revenue, subject to the following conditions:

21 * * *

22 (f)(i)

23 * * *

24 (bb) For projects that apply on and after July 1, 2017, and prior to July 1,
25 2023, the motion picture production company that earned the motion picture
26 production tax credits pursuant to such certification or the company's irrevocable
27 designee, as provided for in Item (iii) of this Subparagraph, may transfer the credits
28 to the Department of Revenue for ninety percent of the face value of the credits in
29 accordance with the procedures and requirements of Item (ii) of this Subparagraph.

30 * * *

1 ~~(dd)(I) For projects that apply on and after July 1, 2023, and prior to July 1,~~
2 ~~2024, the motion picture production company that earned the motion picture~~
3 ~~production tax credits pursuant to such certification may transfer the credits to the~~
4 ~~Department of Revenue for eighty-two and one-half percent of the face value of the~~
5 ~~credits in accordance with the procedures and requirements of Item (ii) of this~~
6 ~~Subparagraph.~~

7 ~~(II) For projects that apply on and after July 1, 2024, and prior to July 1,~~
8 ~~2025, the motion picture production company that earned the motion picture~~
9 ~~production tax credits pursuant to such certification may transfer the credits to the~~
10 ~~Department of Revenue for seventy five percent of the face value of the credits in~~
11 ~~accordance with the procedures and requirements of Item (ii) of this Subparagraph.~~

12 ~~(III) For projects that apply on and after July 1, 2025, and prior to July 1,~~
13 ~~2026, the motion picture production company that earned the motion picture~~
14 ~~production tax credits pursuant to such certification may transfer the credits to the~~
15 ~~Department of Revenue for sixty-seven and one-half percent of the face value of the~~
16 ~~credits in accordance with the procedures and requirements of Item (ii) of this~~
17 ~~Subparagraph.~~

18 ~~(IV) For projects that apply on and after July 1, 2026, and prior to July 1,~~
19 ~~2027, the motion picture production company that earned the motion picture~~
20 ~~production tax credits pursuant to such certification may transfer the credits to the~~
21 ~~Department of Revenue for sixty percent of the face value of the credits in~~
22 ~~accordance with the procedures and requirements of Item (ii) of this Subparagraph.~~

23 ~~(V) For projects that apply on and after July 1, 2027, and prior to July 1,~~
24 ~~2028, the motion picture production company that earned the motion picture~~
25 ~~production tax credits pursuant to such certification may transfer the credits to the~~
26 ~~Department of Revenue for fifty-two and one half percent of the face value of the~~
27 ~~credits in accordance with the procedures and requirements of Item (ii) of this~~
28 ~~Subparagraph.~~

1 (VI) For projects that apply on and after July 1, 2028, and prior to July 1,
2 2029, the motion picture production company that earned the motion picture
3 production tax credits pursuant to such certification may transfer the credits to the
4 Department of Revenue for forty-five percent of the face value of the credits in
5 accordance with the procedures and requirements of Item (ii) of this Subparagraph.

6 (VII) For projects that apply on and after July 1, 2029, and prior to July 1,
7 2030, the motion picture production company that earned the motion picture
8 production tax credits pursuant to such certification may transfer the credits to the
9 Department of Revenue for thirty-seven and one half percent of the face value of the
10 credits in accordance with the procedures and requirements of Item (ii) of this
11 Subparagraph.

12 (VIII) For projects that apply on and after July 1, 2030, and prior to July 1,
13 2031, the motion picture production company that earned the motion picture
14 production tax credits pursuant to such certification may transfer the credits to the
15 Department of Revenue for thirty percent of the face value of the credits in
16 accordance with the procedures and requirements of Item (ii) of this Subparagraph.

17 (IX) For projects that apply on and after July 1, 2031, and prior to July 1,
18 2032, the motion picture production company that earned the motion picture
19 production tax credits pursuant to such certification may transfer the credits to the
20 Department of Revenue for twenty-two and one half percent of the face value of the
21 credits in accordance with the procedures and requirements of Item (ii) of this
22 Subparagraph.

23 (X) For projects that apply on and after July 1, 2032, and prior to July 1,
24 2033, the motion picture production company that earned the motion picture
25 production tax credits pursuant to such certification may transfer the credits to the
26 Department of Revenue for fifteen percent of the face value of the credits in
27 accordance with the procedures and requirements of Item (ii) of this Subparagraph.

28 (XI) For projects that apply on and after July 1, 2033, and prior to July 1,
29 2034, the motion picture production company that earned the motion picture

1 expenditures detailing the date of the expenditure, the vendor's address including the
2 zip code, and the amount of the expenditure.

3 * * *

4 (d)(i) Project-based production tax credit. After application review and
5 consideration of all discretionary factors, the office and the secretary shall submit
6 their initial certification or written denial of a project as a state-certified production
7 to investors and to the secretary of the Department of Revenue indicating the total
8 base investment which shall be expended in the state on the state-certified production
9 within sixty days of their receipt of all required information. The initial certification
10 shall include a unique identifying number for each state-certified production ~~and~~
11 ~~shall provide for a preliminary allocation of tax credits by year.~~

12 * * *

13 I. No credits shall be allowed pursuant to this Section for applications
14 received on or after July 1, ~~2025~~ 2035.

15 J. Credit caps, structured pay outs, and project size limitations.

16 (1) Department of Economic Development program issuance cap.

17 (a) The department shall by rule establish ~~the method of provisionally~~
18 ~~allocating available tax credits in initial certification letters, and~~ the method for
19 granting tax credits in final tax credit certification letters, including but not limited
20 to a first-come, first-served system, reservation of tax credits for a specific time
21 period, or other method which the department, in its discretion, may find beneficial
22 to the program.

23 (b) For applications for state-certified productions and qualified
24 entertainment companies submitted on or after July 1, 2017, but prior to July 1, 2023,
25 the total amount of all tax credits granted in a final certification letter by the
26 department in any fiscal year shall not exceed one hundred fifty million dollars.
27 Twenty percent of the annual program cap shall be reserved as follows: five percent
28 for qualified entertainment companies, five percent for Louisiana screenplay
29 productions, and ten percent for independent film productions. If the total amount

1 of credits applied for in any particular year exceeds the aggregate amount of tax
2 credits allowed for that year, the excess shall be treated as having been applied for
3 on the first day of the subsequent year.

4 ~~(c)~~ (i) If the total amount of credits granted to QECs in any fiscal year is less
5 than the QEC cap, any residual amount of unused credits shall carry forward for use
6 in subsequent years and may be granted in addition to the QEC cap for each year.

7 (ii) If the total amount of credits granted in any fiscal year to screenplay
8 productions or independent film productions is less than their respective caps, any
9 residual amount may be available for issuance by the department during that fiscal
10 year as established by rule.

11 ~~(d)~~ (iii) The department shall make reasonable efforts to post a listing of
12 estimated amounts available under the cap on its website.

13 (c) For applications for state-certified productions and qualified
14 entertainment companies submitted on or after July 1, 2023, the total amount of all
15 tax credits granted in a final certification letter by the department in any fiscal year
16 shall not exceed one hundred fifty million dollars. If the total amount of credits
17 applied for in any particular year exceeds the aggregate amount of tax credits
18 allowed for that year, the excess shall be treated as having been applied for on the
19 first day of the subsequent year.

20 * * *

21 K. The office shall develop a new Louisiana promotional graphic which
22 includes a symbol that is easily recognized as representing the state of Louisiana.
23 The promotional graphic shall be submitted to the Joint Legislative Committee on
24 the Budget for approval no later than November 1, 2023.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 562 Reengrossed

2023 Regular Session

Schexnayder

Abstract: Extends the sunset of the motion picture production tax credit from July 1, 2025, to July 1, 2035, and makes changes to the administration of the credit.

Present law authorizes the following tax credits for state-certified productions:

- (1) A 25% tax credit if the base investment is in excess of \$300,000 or if the production is a La. screenplay production.
- (2) An additional 5% base investment credit for projects filmed outside the New Orleans Metro Zone, but not including St. John the Baptist Parish.
- (3) An additional 10% base investment credit for certain expenditures equal to or greater than \$50,000 but less than \$5 million for projects meeting certain La. screenplay criteria.
- (4) A 15% credit for La. resident payroll expenditures.
- (5) A 5% credit for certain La.-based visual effects expenditures meeting certain requirements.

Proposed law retains present law.

Present law defines a "La. promotional graphic" as a graphical brand or logo for promotion of the state that has been approved by the office of entertainment industry development in the Dept. of Economic Development (DED), hereinafter "office", and requires productions to acknowledge the financial assistance of the state, either through the inclusion of a La. promotional graphic or an alternative marketing option approved by the office.

Proposed law removes the alternative marketing option for productions submitting an application on or after July 1, 2023.

Proposed law expands the definition of "La. promotional graphic" to include an electronic press kit or a customized video for use by the office or an alternative asset as determined by the office *and* either of the following:

- (1) Up to a five-second long static or animated graphic that promotes La. in the end credits before the below-the-line crew crawl for the life of the production.
- (2) Up to a five-second long static or animated embedded graphic that promotes La. during each broadcast worldwide, in the end credits before the below-the-line crew crawl for the life of the production.

Present law provides for a cap of \$150M in any fiscal year on tax credits that may be granted in a final certification letter by DED for state-certified productions and qualified entertainment companies (QEC) submitted on or after July 1, 2017. If the total amount of credits applied for in a year exceeds the aggregate amount of tax credits allowed for that year, the excess shall be treated as having been applied for on the first day of the subsequent year.

Present law reserves 20% of the annual program cap as follows: 5% for qualified entertainment companies, 5% for La. screenplay productions, and 10% for independent film productions.

Proposed law retains present law with respect to the \$150M DED program issuance cap but repeals the reservation of tax credits in present law for state-certified productions and QEC applications submitted on or after July 1, 2023.

Present law provides for establishment of the La. Entertainment Development Dedicated Fund Account for deposit of fees collected by the Dept. of Revenue (DOR) pursuant to notifications of transfer of tax credits. Present law requires 25% of the monies in the account to be appropriated to DOR for administrative purposes and 75% of the monies to be appropriated to the office for education development initiatives, matching grants for La. filmmakers, a loan guarantee program, and a deal closing fund.

Proposed law retains present law but changes the use of the monies in the account appropriated to the office by eliminating the loan guarantee program and a deal closing fund and including La. workforce development programs, and other motion picture and television related programs as determined by rule.

Present law allows a motion picture production company or the company's irrevocable designee to transfer the company's credits to DOR for 90% of the face value of the credits.

Proposed law prohibits a bank or lender from being named an irrevocable designee beginning July 1, 2023, and removes the company's ability to transfer a credit to an irrevocable designee as of the same date.

Proposed law reduces the percentage of the face value of the credit that a production company can transfer to the Dept. of Revenue for payment by 7.5% each year through July 1, 2034, at which point the company may not transfer any credits to DOR.

Proposed law prohibits a motion picture production company from earning a credit if the company has failed to file federal, state, or local taxes, has failed to pay any taxes due, or owns any property in La. that is subject to a lien.

Present law requires DED to engage an independent certified public accountant to prepare a production expenditure verification report on a tax credit applicant's cost report of expenditures or claims. Present law further requires the applicant to make all records available to the CPA.

Proposed law requires the records to include a listing of all La. expenditures detailing the date of the expenditure, the vendor's address including the zip code, and the amount of the expenditure for applications received on or after July 1, 2023.

Present law requires DED to submit an initial certification or written denial of a project as a state-certified production to investors and the secretary of DOR within 60 days of receipt of required information. Further requires the initial certification to include a primary allocation of tax credits by year.

Proposed law retains present law with respect to submission of an initial certification or written denial but repeals present law provisions with respect to inclusion of a primary allocation of tax credits by year in an initial certification.

Present law prohibits motion picture production tax credits from being allowed for applications received on or after July 1, 2025.

Proposed law extends the sunset of this tax credit from July 1, 2025, to July 1, 2035.

Proposed law requires DED to develop a new La. promotional graphic and submit it to the Joint Legislative Committee on the Budget for approval no later than Nov. 1, 2023.

(Amends R.S. 47:6007(B)(11), (C)(1)(a)(iv) and (4)(f)(i)(bb) and (iii) and (h)(iii)(bb), (D)(2)(c)(i) and (d)(i), (I), and (J)(1); Adds R.S. 47:6007(C)(4)(f)(i)(dd) and (8) and (K))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Ways and Means to the original bill:

1. Expand the definition of a "Louisiana promotional graphic".
2. Remove provision that would have eliminated the alternative marketing option for productions submitting an application on or after July 1, 2023.
3. Remove provision that would have eliminated the \$150M Dept. of Economic Development program issuance cap.
4. Add provision that specifies that the 20% allotment of the \$150M Dept. of Economic Development program issuance cap in present law reserved for qualified entertainment companies (QEC), La. screenplay productions, and independent film productions shall not apply to state-certified productions and QEC applications submitted on or after July 1, 2023.
5. Delete the repeal of the sunset provision of this tax credit in favor of extending the sunset from July 1, 2025, to July 1, 2035.

The House Floor Amendments to the engrossed bill:

1. Restore the provision eliminating the alternative marketing option for productions submitting an application on or after July 1, 2023.
2. Reduce the percentage of the face value of the credit that a production company can transfer to the Dept. of Revenue for payment by 7.5% each year over the next 12 years.
3. Prohibit a bank or other lender from being named as an irrevocable designee for the tax credit beginning July 1, 2023.
4. Prohibit a motion picture production company from receiving a credit if the company is delinquent on any federal, state, or local taxes or has a lien against any property in La.
5. Require the Dept. of Economic Development to develop a new promotional graphic and submit it to the Joint Legislative Committee on the Budget for approval no later than Nov. 1, 2023.